

BEFORE THE MISSOURI REAL ESTATE COMMISSION

MISSOURI REAL ESTATE COMMISSION,)	
)	
Petitioner,)	
)	
v.)	No. 13-1578 RE
)	
SUZY D. SAMSEL)	
RED APPLE SERVICES, LLC)	
and)	
APPLE REAL ESTATE, LLC)	
Respondents.)	

**AMENDED
FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DISCIPLINARY ORDER**

On or about October 31, 2013, the Administrative Hearing Commission entered its Default Decision in the case of *Missouri Real Estate Commission v. Suzy D. Samsel, Apple Real Estate, LLC and Red Apple Services, LLC*, No. 13-1578 RE. In that Default Decision, the Administrative Hearing Commission found that Respondents Suzy D. Samsel , Apple Real Estate LLC and Red Apple Services LLC are subject to the imposition of a civil penalty by the Commission pursuant to §§ 339.200.1, 339.205 and 339.020, RSMo.

The Missouri Real Estate Commission (“MREC”) has received and reviewed the record of the proceedings before the Administrative Hearing Commission and the Default Decision of the Administrative Hearing Commission. The record of the Administrative Hearing Commission is incorporated herein by reference in its entirety.

Pursuant to notice and §§ 621.110, 339.200.3 and 339.205 RSMo, the MREC held a hearing on April 2, 2014, at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri, for the purpose of determining the appropriate civil penalties to impose

¹All Statutory References are to the Revised Statutes of Missouri, 2000, as amended, unless otherwise indicated.

against Respondents. All of the members of the MREC were present throughout the meeting. Charles Davis participated through conference call. Further, each member of the MREC that was present for the hearing has read the Default Decision of the Administrative Hearing Commission. The MREC was represented by Assistant Attorney General Nichole Bock. Respondents having received proper notice and opportunity to appear did not appear in person or through legal counsel. After being present and considering all of the evidence presented during the hearing, the MREC issues these following Findings of Facts, Conclusions of Law and Order.

Based upon the foregoing the MREC hereby states:

I.

FINDINGS OF FACT

1. The MREC is an agency of the state of Missouri created and established pursuant to § 339.120, RSMo, for the purpose of licensing all persons engaged in the practice as a real estate broker associate or salesperson in this state. The MREC has control and supervision of the licensed occupations and enforcement of the terms and provisions of §§ 339.010-339.205 and 339.710-339.855, RSMo.

2. The MREC hereby adopts and incorporates by reference the findings of fact of the Default Decision and record of the Administrative Hearing Commission in *Missouri Real Estate Commission v. Suzy D. Samsel, Apple Real Estate, LLC and Red Apple Services, LLC*, No. 13-1578 RE in its entirety and takes official notice thereof and hereby enters its findings of fact consistent therewith.

3. The MREC set this matter for hearing and served notice of the hearing upon Respondents in a proper and timely fashion.

4. The MREC issued Suzy D. Samsel's real estate broker associate licenses 2011020577 and 2011020575 and real estate broker license 1999004145, Apple Real Estate LLC's real estate association license 2011020574 and Red Apple Services LLC's real estate association license 2011020576. Respondents' licenses were not current at all times relevant to this proceeding. Samsel's real estate broker associate licenses and her real estate broker license were previously revoked by Order of the Missouri Real Estate Commission on February 23, 2012. Apple Real Estate LLC's real estate association license expired on June 30, 2012 due to failure to renew. Red Apple Services LLC's real estate association license expired on June 30, 2012 due to failure to renew.

II.

CONCLUSIONS OF LAW

5. This MREC has jurisdiction over this proceeding pursuant to §§ 621.110, 339.200 and 339.205, RSMo.

6. The MREC expressly adopts and incorporates by reference the conclusions of law and Default Decision issued by the Administrative Hearing Commission dated October 31, 2013, in *Missouri Real Estate Commission v. Suzy D. Samsel, Apple Real Estate, LLC and Red Apple Services, LLC*, No. 13-1578 RE, takes official notice thereof, and hereby enters its conclusions of law consistent therewith.

7. As a result of the foregoing, and in accordance with the Administrative Hearing Commission's Default Decision dated October 31, 2013, Respondents are subject to civil penalties imposed by the MREC pursuant to §§ 339.200.1, 339.205 and 339.020, RSMo.

8. The MREC has determined that this Order is necessary to ensure the protection of the public.

III.

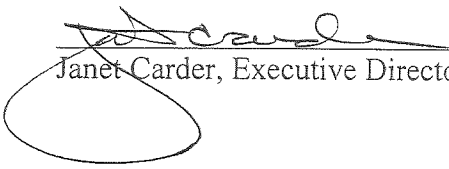
ORDER

Having fully considered all the evidence before the MREC, and giving full weight to the Default Decision of the Administrative Hearing Commission, it is the **ORDER** of the MREC that Suzy D. Samsel, Apple Real Estate LLC and Red Apple Services LLC are hereby ordered to pay a civil penalty of \$25,000 by certified check made payable to the "Missouri Real Estate Commission" and mail to the Missouri Real Estate Commission, P.O. Box 1339, Jefferson City, MO 65102-1339. Said check must be postmarked or hand delivered within 60 days of the date of this Order. Funds received pursuant to this Order shall be handled in accordance with Section 7 of Article IX of the Missouri Constitution and § 339.205.8, RSMo.

The MREC will maintain this Order as an open, public record of the MREC as provided in Chapters 339, 610, and 324, RSMo.

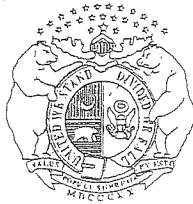
SO ORDERED, EFFECTIVE THIS 17th DAY OF April, 2014.

MISSOURI REAL ESTATE COMMISSION



Janet Carder, Executive Director

Before the
Administrative Hearing Commission
State of Missouri



MISSOURI REAL ESTATE
COMMISSION,

Petitioner,

vs.

No. 13-1578 RE

SUZY D. SAMSEL, RED APPLE
SERVICES, LLC, and APPLE REAL
ESTATE, LLC,

Respondents.

DEFAULT DECISION

On September 4, 2013, Petitioner Missouri Real Estate Commission filed a properly pled complaint seeking to discipline Suzy D. Samsel, Red Apple Services, LLC, and Apple Real Estate, LLC (Respondents). Respondents were served with a copy of the complaint and our notice of complaint/notice of hearing by certified mail before September 12, 2013.¹

More than thirty days have elapsed since Respondents were served. Respondents have not filed an answer or otherwise responded to the complaint.

In accordance with § 621.100.2, RSMo (Supp. 2012), we enter a default decision against Respondents establishing that Petitioner is entitled to the relief requested in the complaint. This default decision shall become final and may not be set aside unless a motion is filed with this Commission within thirty days of the date of this order establishing good cause for not responding to the complaint and stating facts constituting a meritorious defense.

SO ORDERED on October 31, 2013.

A handwritten signature in black ink, reading "Alana M. Barragan-Scott".

ALANA M. BARRAGAN-SCOTT
Commissioner

¹There is no date of delivery on the certified mail receipt, but it was filed with us on September 12, 2013.

BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

FILED

SEP 04 2013

ADMINISTRATIVE HEARING
COMMISSION

MISSOURI REAL ESTATE)
COMMISSION)

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Jefferson City, MO 65102,)
Telephone: (573)751-2628,)

Petitioner,)

v.)

SUZY D. SAMSEL,)
d/b/a APPLE REAL ESTATE)
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Ridgedale, MO 65739)
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APPLE REAL ESTATE, LLC,)
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RED APPLE SERVICES, L.L.C.,)
d/b/a APPLE REAL ESTATE)
180 Mall Road Ste G)
Hollister, MO 65672)
Telephone: (417) 334-7888)

Respondents.)

Case No.: 13-1578RE

COMPLAINT

Petitioner, the Missouri Real Estate Commission ("MREC"), by and through its counsel the Attorney General of the State of Missouri, and for its cause of action against Respondents, states the following:

1. The MREC is an agency of the State of Missouri created and existing pursuant to Section 339.120, RSMo (Supp. 2012),¹ for the purpose of executing and enforcing the provisions of Sections 339.010 to 339.180 and Sections 339.710 to 339.860, RSMo (as amended), relating to real estate salespersons and brokers.

2. Suzy D. Samsel was previously licensed by the MREC as a real estate broker, license no. 1999004145, and as a real estate broker associate, license nos. 2011020577 and 2011020575.

3. On October 28, 2011, the Administrative Hearing Commission ("AHC") issued an order finding that Samsel's real estate broker and broker associate licenses (as numbered above) were subject to discipline under Section 339.100.2(1), (3), and (15), RSMo. On November 3, 2011, the AHC issued a decision finalizing the October 28, 2011 order.

4. On February 23, 2012, the MREC issued an order revoking Samsel's real estate broker and broker associate licenses (as numbered above) for the reasons set forth in the AHC's order and decision.

5. Apple Real Estate, LLC was previously licensed as real estate association, license no. 2011020575. That license expired on June 30, 2012.

¹All statutory citations are to the Revised Statutes of Missouri 2000, unless otherwise noted.

6. Red Apple Services, L.L.C. was previously licensed as a real estate association, license no, 2011020576. That license also expired on June 30, 2012.

7. Samsel is the organizer of Apple Real Estate, LLC, and Red Apple Services, L.L.C.

8. Samsel was the designated broker for both real estate associations.

9. Samsel, Apple Real Estate, LLC and/or Red Apple Services, L.L.C. conduct business under the fictitious name Apple Real Estate.

10. Samsel is registered with the Missouri Secretary of State as the owner of the fictitious name Apple Real Estate.

11. Despite her licenses being revoked and the licenses of the associations having expired, Samsel has continued to perform activities individually and/or through Red Apple Services, L.L.C. and/or Apple Real Estate, LLC that require a license from the MREC under Chapter 339.

12. Jurisdiction and venue are proper before the Administrative Hearing Commission pursuant to Sections 621.045 and 339.200, RSMo (Supp. 2012).

13. Section 339.200, RSMo (Supp. 2012) states in relevant part:

1. It shall be unlawful for any person not holding the required license from the commission to perform any act for which a license is required by sections

339.010 to 339.180 and sections 339.710 to 339.860. The commission may cause a complaint to be filed with the administrative hearing commission, as provided in chapter 621, against any unlicensed person who:

(1) Engages in or offers to perform any act for which a license is required by sections 339.010 to 339.180 and sections 339.710 to 339.860;

...

2. If the commission files a complaint with the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding by the administrative hearing commission that the grounds provided in subsection 1 of this section for action are met, the commission may, either singularly or in combination with other provisions of this chapter, impose a civil penalty against the person named in the complaint in an amount not to exceed the limit authorized by section 339.205.

14. Until January 2013, Samsel performed property management services through Red Apple Services, L.L.C. for two properties in Merion Woods, Missouri, owned by William and/or Jennifer Sandberg ("the Sandberg properties").

15. The property management agreement between Red Apple Services, L.L.C. and William and Jennifer Sandberg, which was signed by Samsel, gave Red Apple Services, L.L.C. the authority to negotiate leases

with tenants, list the property, and sign, renew, or cancel leases on the owners' behalf.

16. Samsel also collected rent and security deposits for the Sandberg properties during the property management relationship.

17. Under the Sandberg property management agreement, Red Apple Services, L.L.C. received ten percent of the rents and security deposits for the Sandberg properties.

18. In December 2012, Samsel leased one of the Sandberg properties to Dawn Winters ("Winters").

19. William and Jennifer Sandberg ended their property management agreement with Red Apple Services, L.L.C./Samsel on or about January 1, 2013, because of Samsel's poor management of the properties.

20. In February 2013, Samsel leased to Winters another property owned by Kathryn P. Keelin.

21. On or about April 30, 2013, and May 3, 2013, Samsel offered to provide property management services to Lee Jaegers ("Jaegers"), an investigator for the Missouri Real Estate Commission. Samsel told Jaegers that she would collect rent and security deposit funds and that she could also handle maintenance for his properties. She stated that she would charge Jaegers ten percent of the rent each month and twenty-five percent of the rent for the first month, if she leased the properties.

22. On May 3, 2013, Samsel told Jaegers that she was currently managing forty-three properties.

23. After Jaegers identified himself as an investigator with the Missouri Real Estate Commission, Samsel acknowledged to Jaegers that her broker license had been revoked and that she was still conducting property management activities.

24. On May 3, 2013, Samsel gave Jaegers the names of four owners that she was providing property management services for at that time: David Hawkins, Debra Welch, Kathleen Hurley, and Carol Stephenson.

25. On May 3, 2013, Samsel also provided Jaegers a copy of a management agreement with Tommy and Debra Welch. The Welch property management agreement listed the broker as "Red Apple Services-Propert[ty] Services LLC" and "Apple Real Estate (Red Apple Services-PM)."

26. The Welch property management agreement, which was signed by Samsel, gave Apple Real Estate/Red Apple Services, L.L.C. the right to negotiate leases with tenants, list the property, and sign, renew, or cancel leases on the owner's behalf.

27. Section 339.200.1, RSMo (Supp. 2012) makes it unlawful for any person not licensed under Chapter 339, RSMo to perform any act for which a real estate license is required.

28. Section 339.020, RSMo (Supp. 2012), makes it unlawful for a person or limited liability company to act as a real estate broker, real estate broker-salesperson, or real estate salesperson, or to "advertise or assume to act a such" as such without a license from the MREC.

29. Section 339.010, RSMo (Supp. 2012), defining real estate broker, real estate sales person, and real estate broker-salesperson, states in part:

1. A "real estate broker" is any person, partnership, limited partnership, limited liability company, association, professional corporation, or corporation, foreign or domestic who, for another, and for a compensation or valuable consideration, does, or attempts to do, any or all of the following:

(1) Sells, exchanges, purchases, rents, or leases real estate;

(2) Offers to sell, exchange, purchase, rent or lease real estate;

(3) Negotiates or offers or agrees to negotiate the sale, exchange, purchase, rental or leasing of real estate;

(4) Lists or offers or agrees to list real estate for sale, lease, rental or exchange;

(5) Buys, sells, offers to buy or sell or otherwise deals in options on real estate or improvements thereon;

(6) Advertises or holds himself or herself out as a licensed real estate broker while engaged in the business of buying, selling, exchanging, renting, or leasing real estate;

(7) Assists or directs in the procuring of prospects,

calculated to result in the sale, exchange, leasing or rental of real estate;

(8) Assists or directs in the negotiation of any transaction calculated or intended to result in the sale, exchange, leasing or rental of real estate;

(9) Engages in the business of charging to an unlicensed person an advance fee in connection with any contract whereby the real estate broker undertakes to promote the sale of that person's real estate through its listing in a publication issued for such purpose intended to be circulated to the general public;

(10) Performs any of the foregoing acts on behalf of the owner of real estate, or interest therein, or improvements affixed thereon, for compensation.

2. A **"real estate salesperson"** is any person, partnership, limited partnership, limited liability company, association, professional corporation, or corporation, domestic or foreign who for a compensation or valuable consideration becomes associated, either as an independent contractor or employee, either directly or indirectly, with a real estate broker to do any of the things above mentioned. The provisions of sections 339.010 to 339.180 and sections 339.710 to 339.8601 shall not be construed to deny a real estate salesperson who is compensated solely by commission the right to be associated with a broker as an independent contractor.

3. A **"real estate broker-salesperson"** is any person, partnership, limited partnership, limited liability company, association, professional corporation, or corporation, domestic or foreign, who has a real estate broker license in good standing, who for a compensation or valuable consideration becomes associated, either as an independent contractor or

employee, either directly or indirectly, with a real estate broker to do any of the things above mentioned. A real estate broker-salesperson may not also operate as a real estate broker. The provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall not be construed to deny a real estate salesperson who is compensated solely by commission the right to be associated with a broker as an independent contractor.

30. Based on the property management services provided by Respondents, and offered to be provided by Respondents, as alleged herein, Respondents engaged in the activities of a real estate broker, real estate broker-salesperson and/or real estate salesperson without a license in violation of Sections 339.020, RSMo (Supp. 2012).

31. Respondents are subject to a civil penalty under Section 339.200.1, RSMo (Supp. 2012) because each engaged in unlicensed activity.

WHEREFORE, Petitioner prays the Administrative Hearing Commission to conduct a hearing in this case pursuant to Chapter 621, RSMo, and thereafter issue its findings of fact and conclusions of law determining that Petitioner may impose a civil penalty against Respondents Samsel, Apple Real Estate, LLC and Red Apple Services, L.L.C. under Section 339.200, RSMo (Supp. 2012).

Respectfully submitted,

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